IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 3644 of 2007(H)

OS.124/1993 of MUNSIFF COURT, VADAKARA
EP.205/2005 of MUNI-MAGI.COURT, PERAMBARA
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PETITIONERS:
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1. K.J.JOY, AGED 43 YEARS, S/O. JOSEPH, KAVILPURAYIDAM, CHEMBANODA, PERUVANNAMOOZHY, KOZHIKODE.

2. LOIUS ANTONY, AGED 45 YEARS, S/O. ANTONY, KANJIRAKAT THALIYIL, CHEMBANODA, PERUVANNAMOOZHY, KOYILANDY TALUK, KOZHIKODE.

BY ADV. SRI.C.R.SIVAKUMAR
SMT.G.VIDYA

RESPONDENT:

THE CATHOLIC SYRIAN BANK LTD., CHORODE BRANCH, VADAKARA TALUK, REPRESENTED BY THE MANAGER.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 3644 OF 2007

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Dated this the 2nd day of February, 2007.

J U D G M E N T

This writ petition is filed to quash Exts.P1 to P3. Ext.P2 is a judgment in O.S.124/93 wherein the defendants personally entered appearance before the trial court and filed written statement confessing the claim with a request for an years time for payment. The trial court granted a decree in favour of the plaintiff and allowed six months time for payment with costs at a confessional scale. The decree was passed on 12th January, 1994. The execution petition is filed in the year 2005. Now, a contention is raised that the decree is invalid and not binding and therefore the decree as well as the execution proceedings should be quashed. It is very difficult to digest such a prayer in a writ petition. If at all a decree of a civil Court is vitiated by fraud or any other circumstances known under the law of contract, the remedy for the party is not to file a writ petition to quash the same but to approach the appropriate forum. The Court has specifically noted that the defendants had personally entered appearance and had filed a written statement. After a decade

they want to raise the plea of invalidity which cannot be decided in a writ proceedings. This writ petition is only an abuse of process of Court and therefore it has to be dismissed and I do so.

M.N. Krishnan, Judge.

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